

**UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division**

**UNITED STATES OF AMERICA**

v.

Criminal No. 4:08cr16

**DAVID ANTHONY RUNYON**

**STATEMENT OF COUNSEL**

Since the filing of the motion to continue, David Runyon has been preliminarily evaluated by neuropsychologist, Allan Mirsky. Dr. Mirsky's testing revealed deficits which will require neurological testing and the evaluation by a neurologist. James Merikangas, M.D., the psychiatrist defendant wishes to engage, is also a neurologist so he could perform both functions for the defendant. Dr. Mirsky's report details his findings on testing, but he is limited by the lack of medical records and the necessity for conducting the neurological testing.

Sheila Cronin, defense mitigation expert, has set forth in her affidavit the status of the mitigation case at the present time. It is clear from the affidavit and the previous motion to continue that the sentencing phase of the case must be continued to allow both the mental health evaluation and mitigation investigation to proceed and be adequately completed.

In the court's order regarding defendant's request for the appointment of psychiatrist, James Merikangas, the court questioned the change from Seymour Halleck, Ph.D. to James Merikangas, M.D. as the defense psychiatric expert. At the time the notice was given for Seymour Halleck, Ph.D., counsel was under the impression from regional counsel for the federal death penalty counsel project that Dr. Halleck was available for this case. It had been

difficult to find someone available for the services and the time to file the motion was eminent. For this reason, counsel noted Seymour Halleck, Ph.D. as the psychiatrist in the case. Upon making direct contact with Dr. Halleck, it was discovered Dr. Halleck was over 80 years old and did not wish to become involved in another death penalty case. Upon learning this, the search for a psychiatrist was resumed. Dr. Merikangas was located and given his relatively close location in Bethesda, Maryland, and his willingness to participate in this case, a request was made to appoint him to the case instead of Dr. Halleck.

At the time of the initial request, Dr. Merikangas was being engaged for exactly the same purpose as Dr. Halleck had been noticed. Recently, because of the report from Dr. Mirsky revealing the need for a neurologist, a supplemental notice was given listing Dr. Merikangas as both a psychiatrist and a neurologist. Defendant requests he be appointed for both purposes at this time. He is available to begin testing immediately.

DAVID ANTHONY RUNYON

By: \_\_\_\_\_/s/\_\_\_\_\_  
Stephen A. Hudgins, Esquire  
VSB No. 20315  
Counsel for David Anthony Runyon  
Cope & Olson, P.L.C.  
11836 Canon Blvd., Suite 100  
Newport News, VA 23606  
Telephone: 757.596.0316  
Telefax: 757.596.5320  
shudgins@com.hrcoxmail.com

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of July, 2009, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Blair C. Perez, Esquire  
United States Attorney's Office  
101 W. Main Street, Suite 8000  
Norfolk, VA 23510  
Telephone: 757.441.6331  
Telefax: 757.441.6689  
[blair.perez@usdoj.gov](mailto:blair.perez@usdoj.gov)

Brian J. Samuels, Esquire  
VSB No. 65898  
United States Attorney's Office  
Fountain Plaza Three, Suite 300  
721 Lakefront Commons  
Newport News, VA 23606  
Telephone: 757.591.4000  
Telefax: 757.591.0866  
[brian.samuels@usdoj.gov](mailto:brian.samuels@usdoj.gov)

Lisa R. McKeel, Esquire  
VSB No. 28652  
United States Attorney's Office  
Fountain Plaza Three, Suite 300  
721 Lakefront Commons  
Newport News, VA 23606  
Telephone: 757.591.4000  
Telefax: 757.591.0866  
[lisa.mckeel@usdoj.gov](mailto:lisa.mckeel@usdoj.gov)

Lawrence Hunter Woodward, Jr., Esquire  
Shuttleworth, Ruloff, Swain, Haddad & Morecock, P.C.  
Counsel for David Anthony Runyon  
4525 South Boulevard, Suite 300  
Virginia Beach VA 23452  
Telephone: 757.671.6047  
Telefax: 757.671.6004  
[lwoodward@srgslaw.com](mailto:lwoodward@srgslaw.com)

Larry M. Dash, Esquire  
Office of the Federal Public Defender  
Counsel for Catherina Rose Voss  
150 Boush Street, Suite 403  
Norfolk, VA 23510  
[larrydash@fd.org](mailto:larrydash@fd.org)

Paul G. Gill, Esquire  
Office of the Federal Public Defender  
Counsel for Catherina Rose Voss  
830 E. Main Street, Suite 1100  
Richmond, VA 23219  
[paulgill@fd.org](mailto:paulgill@fd.org)

Jeffrey A. Swartz, Esquire  
Rabinowitz, Swartz, Taliaferro, Swartz & Goodove  
Counsel for Catherina Rose Voss  
150 Boush Street, Suite 800  
Norfolk, VA 23510  
[jswartz@rstsg.com](mailto:jswartz@rstsg.com)

James S. Ellenson, Esquire  
Law Office of James Stephen Ellenson  
Counsel for Michael Anthony Eric Draven  
Bank of America Building  
2600 Washington Avenue, Suite 1000  
Newport News, VA 23607  
[jseatty@aol.com](mailto:jseatty@aol.com)

Timothy G. Clancy, Esquire  
Moschel & Clancy, PLLC  
Counsel for Michael Anthony Eric Draven  
2101 Executive Drive, Third Floor  
Tower Box 78  
Hampton VA 23666  
[tclancy@moschelandclancy.com](mailto:tclancy@moschelandclancy.com)

\_\_\_\_\_/s/\_\_\_\_\_  
Stephen A. Hudgins, Esquire  
VSB No. 20315  
Counsel for David Anthony Runyon  
Cope & Olson, P.L.C.  
11836 Canon Blvd., Suite 100  
Newport News, VA 23606  
Telephone: 757.596.0316  
Telefax: 757.596.5320  
[shudgins@com.hrcoxmail.com](mailto:shudgins@com.hrcoxmail.com)